



November 17, 2017

Federal Trade Commission
Office of the Secretary
400 7th St. SW, Suite 5610 (Annex A)
Washington, DC 20580

Re: Ed Tech Workshop

The Computing Technology Industry Association (CompTIA) is a non-profit trade association serving as the voice of the information technology industry. With approximately 2,000 member companies, 3,000 academic and training partners and nearly 2 million IT certifications issued, CompTIA is dedicated to advancing industry growth through educational programs, market research, networking events, professional certifications and public policy advocacy.

CompTIA's membership includes companies who provide hardware, software and online services to schools, and CompTIA is a long-time supporter of technology in the classroom. As the workforce landscape continues to shift, schools need to be able to use technology to better prepare students for 21st century jobs. Education technology ("ed tech") also can help personalize students' learning experiences, allow students to access near-limitless information, and give teachers an incredible amount of flexibility with their lesson plans. Ed tech has, plain and simple, become a crucial piece of the learning experience. Ed tech providers also understand the importance of students' privacy, and take seriously their responsibilities to comply with federal and state laws.

Per the FTC's guidance, under the Children's Online Privacy Protection Act (COPPA) schools are permitted to act as intermediaries between ed tech providers and parents with respect to providing consent to the collection of student data for educational purposes. Thus, under COPPA, ed tech providers do not need to obtain direct consent from parents as long as long as they are collecting students' personal information solely for the use and benefit of the school. Under the Family Educational Rights and Privacy Act (FERPA), schools may not disclose students' education records without parental consent, but the Department of Education's guidance notes that as long as schools follow the "School Official Exception," they may disclose student records in order to effectively use ed tech in their classrooms.

When viewing the collection of personal information by ed tech providers through the lens of these two statutes (and the subsequent guidance from the FTC and Department of Education), there is a lack of clarity about when ed tech providers need to obtain consent from parents and when consent from schools alone will suffice. Many ed tech providers need to be able to collect student data for their products and services to evolve and adapt to particular students' needs. But these providers need clear guidance from the FTC and the Department of Education to ensure they are in compliance with both COPPA and FERPA when collecting data.

The FTC, however, has not drawn a clear line regarding what “educational context” means in terms of collecting data for adaptive learning purposes. There’s also a lack of clarity around the definition of “other commercial purposes,” and leaves open the question of whether an ed tech provider using data that benefits both the provider and the user would qualify. FERPA, meanwhile, uses slightly different terminology and could be applied any time an ed tech provider collects anything deemed an “education record,” which is not clearly defined. That means *any* time data is collected for adaptive learning purposes the School Official Exception may come into play.

CompTIA’s members would appreciate further guidance from the FTC on the definition of “educational context” under COPPA. A broader definition that clearly includes ed tech would ensure that technology use in the classroom continues to grow and improve. In particular, the FTC should clarify the difference between commercial and educational uses of data, with monetization of data as the dividing line. Data usage for product improvement, on the other hand, should fall within the definition of educational context.

Meanwhile, the Department of Education should maintain the School Official Exception under FERPA to ensure that students continue to have access to a wide variety of enriching technology in the classroom. Without it, ed tech providers likely wouldn’t be able to collect any student information without direct parental consent, which would likely severely limit the variety and efficacy of ed tech.

Ultimately, schools are in the best position to determine how their students use education technology. Nevertheless, greater clarity with regard to the items above is needed to ensure that the school-parent-student bond of trust and accountability is maintained, and that ed tech providers are empowered to fulfill their responsibilities to schools.

CompTIA appreciates the opportunity to comment on the incredibly important issue of protecting students’ privacy, and would like to thank both the FTC and the Department of Education for recognizing the need to clarify how COPPA and FERPA govern the use of technology in the classroom. We are looking forward to attending the December 1 workshop to learn more about how the FTC and Department of Education plan to proceed on this front.

Sincerely,

Matthew Starr
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CompTIA